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C O N F I D E N T I A L SECTION 01 OF 03 COLOMBO 000073

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DEPARTMENT FOR SA, SA/INS, INR/NESA; NSC FOR E. MILLARD

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SUBJECT: In further roiling of cohabitation waters,
President Kumaratunga claims right to serve until 2006

Refs: (A) FBIS Reston Va DTG 140411Z Jan 04
- (B) SA/INS-Colombo 01/13/04 class e-mail
- (C) Colombo 69, and previous

(U) Classified by James F. Entwistle, Deputy Chief of
Mission. Reasons 1.5 (b,d).

1. (C) SUMMARY: Late January 13, Sri Lanka's state-run ITN television network broadcast a taped interview with President Kumaratunga. In the interview, Kumaratunga claimed the constitutional right to serve until late 2006. The President also defended her takeover of three ministries in November 2003, but indicated that she remained open to discussing the matter with the PM. Contacts said her assertion of the right to serve until 2006 would prove controversial, as it long had been thought she could only serve until late 2005. Clearly, Kumaratunga's claim regarding her term has opened up another front in the cohabitation wars. END SUMMARY.

2. (C) PRESIDENT SAYS SHE CAN SERVE UNTIL 2006: Late January 13, the state-run ITN television network broadcast an interview with President Chandrika Bandaranaike Kumaratunga. The lengthy interview, which was taped, was conducted entirely in Sinhala. The most noteworthy item emerging from the interview was the President's claim that she had the constitutional right to serve until late 2006 (versus late 2005 as widely thought). In defending this view (also see Ref C), Kumaratunga asserted that her right to serve until 2006 stemmed from the fact that she had been sworn in a second time for her second term as President in 2000. (Her first swearing in took place in public in 1999. This second ceremony in 2000 was not made public at the time and was only recently disclosed -- see Ref C.) Kumaratunga stated that she was initially sworn in for her second term in 1999 only in order to "calm down the people" and reassure them that she was fit enough to serve as President following an attempt on her life by the Tigers.

3. (C) (Note: As touched on in Ref C messages, this issue is quite complex: In 1999, Kumaratunga called for early presidential elections, which the Sri Lankan Constitution allows. Her call for elections came one year before the end of her first presidential term in 2000. In December 1999, after winning the election for another six-year term, Kumaratunga was publicly sworn in for her second term. Taking this public swearing-in as the starting point of her second term, observers widely assumed that Kumaratunga's term would run from 1999 to 2005. Kumaratunga's confirmation of a second swearing in ceremony in late 2000 has now complicated the situation. End Note.)

4. (C) OTHER ISSUES DISCUSSED IN INTERVIEW: During the wide-ranging interview, the President also discussed the ongoing cohabitation impasse and its impact on the peace process. Her key points on these and other issues included the following:

-- Cohabitation Impasse: The President defended her November 2003 takeover of three key ministries (Defense, Interior, Mass Communications). She indicated that she remained willing to discuss how to resolve the issue of who should control these ministries. In this regard, she said discussions involving a joint committee formed by the President and the PM "had not broken down" and would "resume talks this week."

-- Peace Process: Kumaratunga rejected Prime Minister Wickremesinghe's public assertions (see Ref C) that she should take responsibility for the ceasefire accord with the Tamil Tigers as long as she continued to control the Defense Ministry. In unbridled language, the President was cited as saying that this argument was "idiotic." Without further explanation, she added that she was ready to give the PM the powers he needed in order to move the peace process forward.

-- Possible Parliamentary Elections: The President

indicated that she had no immediate plans to dissolve Parliament and call national parliamentary elections. Given the ongoing cohabitation impasse, however, she allowed that parliamentary elections were possible. At this point, she said her party, the People's Alliance (PA), was getting ready for Provincial Council elections slated to take place in April.

-- Possible alliance with radical party: Kumaratunga said an alliance between her PA party and the radical Janantha Vimukthi Peramuna (JVP) party would be announced "soon," but she did not mention an exact date.

15. (C) REACTION TO INTERVIEW: Reaction among Mission contacts focused mainly on the President's assertion that she had the right to serve until 2006. While there was no immediate reaction by the Prime Minister or his closest advisers to the President's claim regarding the length of her term, their reaction is expected to be negative. (Late January 14, in his weekly media briefing, key Minister G.L. Peiris harshly rejected Kumaratunga's assertion of a right to serve until 2006.) In a hint of this, Upul Jayasuriya, a legal advisor to the PM's United National Party (UNP), told us that he totally rejected the President's claim and he promised that the UNP would fight her on this matter if she pressed further. In his opinion, the second swearing-in could not be taken as legally valid, as there was no precedent for two such ceremonies for one term.

16. (C) In remarks from a more neutral observer, Jehan Perera, media director for the National Peace Council, a local think-tank, told poloff on January 13 that he felt the President's desire to serve until 2006 would spark a serious political row. Admitting that the matter was confusing, Perera said she may have "the legal right" to serve until 2006, but not "the moral right." Kethesh Loganathan, an analyst at the Center for Policy Alternatives, another local think-tank, said the question of the President's tenure in office would create a big controversy, which would serve to further complicate cohabitation tensions. Loganathan added that the second swearing-in might damage Kumaratunga's image, as people might regard it as an "underhanded move" on the President's part.

17. (C) Another close contact, Suresh Premachandran, a member of the pro-Tiger Tamil National Alliance, told Mission that the President's serving another year in office "would create problems" for the peace process. Explaining his point, he said the President was seen by Tamils "as uncooperative" in dealing with important issues in the north and east, such as the resettlement of internally displaced persons (IDPs). Premachandran added that he felt the cohabitation struggle between the President and PM would continue, and that another year in office for the President would only serve to exacerbate tensions between the two.

18. (C) COMMENT: It is not precisely clear whether the Sri Lankan Constitution allows Kumaratunga to serve until 2006, as she asserts. It is confusing, but some articles in the Constitution seem to argue in favor of her claim and some do not (most experts tentatively believe that the law may be on her side). Also in her favor is the fact that the Chief Justice is a close ally and she might well win if this matter goes to the Supreme Court. The Chief Justice does not totally control each and every decision of the 11-member court, however, as smaller "benches" with a different mix of justices often rule on cases, so it is not clear what would happen if there is a legal challenge. With respect to politics, suffice it to say that Kumaratunga's claim has opened up another front in the cohabitation wars. END COMMENT.

19. (U) Minimize considered.

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